THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.16273 OF 2007

Dated: 31-07-2007

Between :

Boddu Navata … Petitioner

And

The Joint Collector, Eluru,
West Godavari District and another. .. Respondents

-

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.16273 OF 2007

ORDER:

The petitioner herein was appointed as authorized dealer of the fair price shop of Kapavaram Village vide proceedings of the Revenue Divisional Officer, Kovvur dated 16-7-2007. Aggrieved by the same, the 2nd respondent herein filed an appeal before the first respondent – Joint Collector contending inter alia that whereas the vacancy was notified for OC women the petitioner who belongs to BC category was erroneously appointed.

The first respondent having entertained the appeal passed an ex parte order dated 24-7-2007 staying the operation of the order of the Revenue Divisional Officer, dated 16-7-2007. Pursuant thereto, though the petitioner has remitted the cost of the essential commodities for the month of August, 2007 by way of demand draft, dated 25-7-2007, the commodities have not been released to him for distribution to cardholders.

Heard the learned counsel for the petitioner and the learned Government Pleader for Civil Supplies.

At the outset, it is to be noted that admittedly the 2nd respondent is only claiming appointment on the ground that he is the legal heir of the previous dealer on whose death the vacancy arose. She never applied pursuant to the notification dated 26-5-2007 inviting applications from the eligible candidates for appointment of the dealer for the shop in question.

In the circumstances, whether the 2nd respondent is entitled for appointment being the legal heir of the deceased dealer is a question to be decided in the main appeal pending before the 1st respondent. Even the question whether the appointment of a candidate belonging to BC category against the vacancy reserved for OC women is erroneous requires to be considered only in the main appeal.

So far as the interim stay pending the appeal is concerned, the impugned order does not reflect that the 1st respondent while passing the impugned order has taken into consideration whether any prima

facie case is made out by the appellant and whether it is necessary in the interest of justice to stay the appointment of the petitioner who was validly appointed following due selection process and an authorisation was also issued in her favour on 16-7-2007. Particularly the 1st respondent ought not to have granted the stay of appointment without notice to the petitioner.

For the aforesaid reasons, the impugned order dated 24-7-2007 is hereby set aside and the Writ Petition is disposed of with a direction to the 1st respondent to pass appropriate orders afresh on the application for stay after hearing both the parties. No costs.

_____

G. ROHINI,J.

Dt. 31-7-2007

klp